

Legislative Bulletin.....October 20, 2009

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H.R. 3763 – To amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses. (Adler, D-NJ)

Order of Business: The bill is scheduled to be considered on Tuesday, October 21, 2009, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3763 exempts health care providers, law firms, and accounting firms with 20 or fewer employees from creating a Red Flags program. Additionally, the legislation also provides the FTC with an option of excluding certain small businesses if they submit an application which meets very specific criteria, all aimed at broadening the scope of those who are eligible to apply without expanding it to such a degree that companies who legitimately should have identity theft precautions set in place could become exempt. Some organizations (such as the American Institute of Certified Public Accountants and the American Bar Association) argue that the limit of 20 employees should be removed from the bill, and the exception for health care providers, law firms, and accounting firms should apply to firms of all sizes.

Background Information: On November 9, 2007, the Federal Trade Commission (FTC) issued a final rule implementing the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) in 2007 which would require financial institutions and creditors to develop and implement a written identity theft program - the Red Flags Program. Neither the Fact Act nor the final rule mentioned health professionals as creditors. Nonetheless, the FTC determined that health care professionals would now be covered under this law

and, therefore, must have implemented a Red Flags program by August 1, 2009. The implementation deadline was later pushed back to November 1, 2009.

Proponents of H.R. 3763 argue that this decision will place a financial burden on providers that could be significant, and it was made without soliciting the input of these small businesses as is required by the RegFlex, which requires that federal agencies consider the potential economic impact of regulations on small entities.

For example, under the FTC regulations, medical and dental offices are considered “creditors” since they are willing to work with patients on developing flexible payment plans for those patients that can’t afford to pay at the time of service. This would seem to discourage efforts to improve access to care for people who can’t afford to pay. Proponents of H.R. 3763 argue that small health care practices are not creditors, and should not be forced to spend hundreds, maybe thousands of dollars to comply with this regulation.

Committee Action: H.R. 3763 was introduced on October 8, 2009, and referred to the House Committee on Financial Services, which took no public action.

Cost to Taxpayers: A CBO score is not available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the resolution does not contain any earmarks.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.R. 3319 - The "Army Specialist Jeremiah Paul McCleery Post Office Building" (McClintock, R-CA)

Order of Business: The bill is scheduled to be considered on Tuesday, October 20, 2009, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3319 would designate the facility of the United States Postal Service located at 440 South Gullwing Street in Portola, California, as the "Army Specialist Jeremiah Paul McCleery Post Office Building".

Additional Information: Jeremiah McCleery joined the Army after graduating from Portola High School in Portola, CA in 2004. He was assigned to the 1st Battalion, 12th Cavalry Regiment, 3rd Brigade Combat Team, 1st Cavalry Division at Ft. Hood, Texas. On May 2, McCleery, 24, and Jake Velloza, 22, were shot and killed at a combat outpost in Hammam Alil, Iraq, north of Baghdad. The attack, which also injured three other American soldiers, was carried out by two gunmen later identified as Iraqi soldiers.

Committee Action: H.R. 3319 was introduced on July 23, 2009, and referred to the House Committee on Oversight and Government Reform. The bill was subsequently considered en bloc and passed by voice vote.

Cost to Taxpayers: A CBO score for H.R. 3319 is unavailable, but the only costs associated with a U.S. federal building renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the resolution does not contain any earmarks.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

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H.R. 3819—To extend the commercial space transportation liability regime (*Rep. Gordon, D-TN*)

Order of Business: The bill is scheduled to be considered on Tuesday, October 20, 2009 under a motion to suspend the rules and pass the bill.

Summary: H.R. 3819 would extend the authorization for Section 70113(f) of title 49 of the United States Code from December 31, 2009 till December 31, 2012.

Additional Background: In 2004, The Commercial Space Launch Amendments Act of 2004 (Public Law 108-492) was signed into law which last extended the regulatory regime for commercial spaceflight to include commercial human spaceflight and the federal indemnification of the commercial spaceflight industry. Additionally, the law

provides for risk sharing of third-party liability for commercial space launch providers licensed by the Federal Aviation Administration (FAA) in order to protect against claims against the FAA for catastrophic disasters. The insurance indemnification law expires at the end of this year. H.R. 3819 extends the authorization until the end of 2012.

Committee Action: On October 15, 2009, the bill was introduced and referred to the Committee on Science and Technology, which took no further subsequent action.

Administration Position: No Statement of Administration Policy is provided.

Cost to Taxpayers: A CBO costs estimate for H.R. 3819 is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. Such a report is technically not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A Committee Report sighting Constitutional authority is not available.

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H.Res. 793 – Supporting the goals and ideals of National Chemistry Week (*Reyes, D, TX*)

Order of Business: The bill is scheduled to be considered on Tuesday, October 20, 2009, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 793 resolves that the House of Representatives:

- “Recognizes that the contributions of chemical scientists and engineers have created new jobs, boosted economic growth, and improved the Nation's health and standard of living;
- “Supports the goals and ideals of National Chemistry Week; and
- “Encourages the people of the United States to observe National Chemistry Week with appropriate recognition, activities, and programs to demonstrate the importance of chemistry to everyday life.”

The resolution lists a number of findings, including:

- “Chemistry is a vitally important field of science and technology that has transformed the world and improved the quality of life around the globe;
- “In order to foster the innovation that will ensure the Nation's global competitiveness, schools must cultivate the finest scientists, engineers, and technicians from every background and neighborhood, with a particular focus on increasing access to science, technology, engineering, and math education for Latinos, African-Americans, women, and other underrepresented students in these fields; and
- “National Chemistry Week volunteers will help provide resources to science educators across the country, promote community events for recycling common elemental items such as aluminum cans, encourage students to explore creative representations of the elements in the Periodic Table, and generally act as ‘chemistry ambassadors’ who emphasize the importance and contributions of chemistry to daily life.”

Committee Action: H.Res. 793 was introduced on October 1, 2009, and referred to the House Committee on Science and Technology, which took no public action.

Cost to Taxpayers: The resolution authorizes no expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the resolution does not contain any earmarks.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.Res. 558 – Supporting the increased understanding of, and interest in, computer science and computing careers among the public and in schools, and to ensure an ample and diverse future technology workforce through the designation of National Computer Science Education Week. (Rep. Ehlers, R-MI)

Order of Business: The bill is scheduled to be considered on Tuesday, October 20, 2009, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 558 resolves that the House of Representatives:

- “Supports the designation of National Computer Science Education Week;
- “Encourages schools, teachers, researchers, universities, and policymakers to identify mechanisms for teachers to receive cutting edge professional development to provide sustainable learning experiences in computer science at all educational levels and encourage students to be exposed to computer science concepts;
- “Encourages opportunities, including through existing programs, for females and underrepresented minorities in computer science; and
- “Supports research in computer science to address what would motivate increased participation in this field.”

The resolution lists a number of findings, including:

- “Computer science education has a number of challenges to address, including distinguishing computer science from technology literacy, providing adequate professional development for computer science teachers, exposing K-12 students to computer science concepts, and attracting more participation by females and underrepresented minorities to the field;
- “Grace Murray Hopper, one of the first females in the field of computer science, engineered new programming languages and pioneered standards for computer systems which laid the foundation for many advancements in computer science; and
- “The week of December 7, in honor of Grace Hopper's birthday, is designated as ‘National Computer Science Education Week.’”

Committee Action: H.Res. 558 was introduced on June 18, 2009, and referred to the House Committee on Science and Technology, and the House Committee on Education and Labor, which took no public action.

Cost to Taxpayers: The resolution authorizes no expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the resolution does not contain any earmarks.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.Res. 797 – Expressing the sense of Congress with respect to raising awareness and enhancing the state of cyber security in the United States, and supporting the goals and ideals of the sixth annual National Cyber Security Awareness Month (*Clark, D-NY*)

Order of Business: The bill is scheduled to be considered on Tuesday, October 20, 2009, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 797 resolves that the House of Representatives:

- “Supports the goals and ideals of National Cyber Security Awareness Month; and
- “Intends to work with Federal agencies, national organizations, businesses, and educational institutions to encourage the development and implementation of existing and future cyber security consensus standards, practices, and technologies in order to enhance the state of cyber security in the United States.”

The resolution lists a number of findings, including:

- “The Cyberspace Policy Review, published by the White House in May 2009, recommends that the Federal Government initiate a national public awareness and education campaign to promote cyber security;
- “The National Cyber Security Alliance's mission is to increase awareness of cyber security practices and technologies to home users, students, teachers, and small businesses through educational activities, online resources and checklists, and Public Service Announcements; and
- “The National Cyber Security Alliance, the Multi-State Information Sharing and Analysis Center, and the Department of Homeland Security have designated October as National Cyber Security Awareness Month to provide an opportunity to educate United States citizens about cyber security.”

Committee Action: H.Res. 797 was introduced on October 6, 2009, and referred to the House Committee on Science and Technology, which took no public action.

Cost to Taxpayers: The resolution authorizes no expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:

A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the resolution does not contain any earmarks.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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